

FILED

JUL 09 2013

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Cause No. CR 07-31-M-DWM

Plaintiff,

vs.

ORDER

DERRICK ELLISON GOBLE,

Defendant.

On July 2, 2013, Defendant Goble moved the Court to reconsider its previous ruling denying his motion to declare his sentence to commence on March 7, 2008. Goble is a federal prisoner proceeding pro se.

Goble still has not identified any statutory authority that would authorize a reduction of his sentence – which is what would be required to give Goble what he wants. The date a sentence commences is determined by statute. *See* 18 U.S.C. § 3585(a); *Thomas v. Brewer*, 923 F.2d 1361, 1368 (9th Cir. 1991). It is not set by the Judgment. Therefore, Fed. R. Crim. P. 36 does not apply, because nothing was

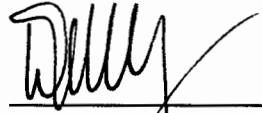
omitted and nothing requires correction in the Judgment. The All Writs Act enables a court to effect matters within its jurisdiction, but it does not pull matters that lie outside a court's authority within that court's authority. As stated, it is not within a sentencing court's authority to decide on what date a federal sentence commences. Further, the Bureau of Prisons, not the sentencing court, has the authority to determine how to execute a federal prison sentence. If Goble believes his sentence is not being executed correctly, his remedy lies with the Bureau of Prisons or in a writ of habeas corpus under 28 U.S.C. § 2241. As this Court lacks personal jurisdiction over the warden of the facility where he is now incarcerated, he may not file a § 2241 petition in this District.

Again, once a sentence is imposed, a court's authority to alter it is limited. 18 U.S.C. § 3582(c). The Director of the Bureau of Prisons has not filed a motion to reduce Goble's sentence. *Id.* § 3582(c)(1)(A). He has not shown that the Sentencing Commission has lowered his guideline range. *Id.* § 3582(c)(2). More than fourteen days have passed since judgment was entered. Fed. R. Crim. P. 35(a). The United States has not filed a motion to reduce the sentence. Fed. R. Crim. P. 35(b). Goble has not filed a motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255 (which would likely be time-barred). This Court is not aware of other statutory authority that authorizes a reduction of Goble's sentence at this late date. 18 U.S.C.

§ 3582(c)(1)(B).

Accordingly, IT IS HEREBY ORDERED that Goble's motion to reconsider (doc. 38) is DENIED. No further motions for reconsideration will be entertained.

DATED this 9th day of July, 2013.



Donald W. Molloy
United States District Court

